

CITY OF LINCOLN/LANCASTER COUNTY

**CONTRACT AWARD NOTIFICATION**  
**ANNUAL REQUIREMENTS FOR**  
**LABORATORY SERVICES FOR**  
**LANCASTER MANOR**

**DATE:** July 31, 2003

**CONTRACT PERIOD:** July 1, 2003 thru June 30, 2005

**CONTRACTOR:** Physicians Laboratory Services, Inc.  
4840 "F" Street  
Omaha, NE 68117

**PURCHASING DIVISION**  
**K-STREET COMPLEX**  
**440 SOUTH 8<sup>TH</sup> STREET**  
**LINCOLN, NEBRASKA 68508**  
**(402) 441-7410**

**Company Representative:** B.Y. Roffman, MD, Pres.  
**Telephone No.:**  
**FAX No.:**

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THE CITY/COUNTY'S SPECIFICATIONS AND THE CONTRACTOR'S ACCEPTED PROPOSAL AND PRICING SCHEDULES, NOW ON FILE IN THE OFFICE OF THE CITY CLERK AND/OR THE COUNTY CLERK, ARE ADOPTED BY REFERENCE AND ARE AS FULLY A PART OF THIS CONTRACT FOR THE ABOVE-NAMED COMMODITY AS IF REPEATED VERBATIM HEREIN.

**AS PER ATTACHED CONTRACT AGREEMENT**

NO ACTION NEED BE TAKEN BY THE CONTRACTOR AT THIS TIME. ORDERS FOR MATERIAL WILL BE MADE AS NEEDED BY THE VARIOUS CITY/COUNTY DEPARTMENTS.

DEPARTMENTS REQUIRING CATALOGS AND/OR PRICING SCHEDULES SHALL NOTIFY THE CONTRACTOR DIRECTLY.

**CONTRACT DOCUMENTS**

**LANCASTER COUNTY**

NEBRASKA

FOR

**LABORATORY SERVICES**  
**For Lancaster Manor**

**Contractor: Physicians Laboratory Services, Inc.**

# LANCASTER COUNTY, NEBRASKA CONTRACT AGREEMENT

## PURPOSE

THIS AGREEMENT, made and entered into this 1 day of June, 2002 by and between Physicians Laboratory Services, Inc., 4840 "F" Street, Omaha, NE 68117 hereinafter called "Contractor", and the Lancaster Manor, 1001 South Street, Lincoln, NE, 68502 hereinafter called the "County".

WITNESS, that:

WHEREAS, Contractor is the owner and operator of a firm which performs various tests and examination of material derived from the human body for the purpose of providing information for the diagnosis, prevention or treatment of disease, and the assessment of medical conditions; and

WHEREAS, the Contractor, is organized under the laws of the State of Nebraska and licensed to do business in the State of Nebraska; and

WHEREAS, the County, desires the Contractor to provide clinical laboratory services to patients to County's Facility located at 1001 South Street, Lincoln, NE 68502 during the term of this Agreement and any renewal thereof; and

WHEREAS, the Contractor is willing to supply clinical laboratory services as requested by the County in the name of its patients as ordered by duly licensed and qualified physicians pursuant to the terms set forth herein during the term of this Agreement and any renewal thereof; and

WHEREAS, the parties desire to set forth in this Agreement the terms and conditions under which Contractor will supply laboratory services and to specify the responsibility of each of the parties in connection with this Agreement.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the County have agreed and hereby agree as follows:

## 1. LICENSE

- 1.1 Contractor hereby warrants that it is duly licensed as a clinical reference laboratory under applicable laws and regulations and that Contractor is certified to participate in the Medicare and Medicaid programs.

- 1.2 All Contractor tests ordered by the County will be performed by qualified personnel under the supervision and control of Contractor.
- 1.3 The County hereby warrants that Lancaster Manor is a duly licensed long term care facility, and all laboratory work ordered by the County on behalf of its patients will have been ordered for the benefit of the patient by a duly licensed and qualified physician in the state of Nebraska.

## **2. CONTRACTOR'S OBLIGATIONS**

- 2.1 Contractor will provide the County with quality clinical laboratory services as requested by duly licensed physicians for the patients of Lancaster Manor.
- 2.2 Such services will include the following:
  - 2.2.1 Standard supplies for collection and transportation of specimens to the Contractors testing facility;
  - 2.2.2 Contractor test requisition forms;
  - 2.2.3 Regularly scheduled courier services for the transportation of specimens to Contractor's Facility, if applicable, test results to the County Facility;
  - 2.2.4 Test report delivery;
  - 2.2.5 Contractors directory of services, technical updates, and new test information; and,
  - 2.2.6 Consultation with Contractor's staff and a designated Sales Representative, respectively, regarding test results and service that are available.
- 2.3 Contractor will in-service County's employees to assist its staff with respect to Contractors' services and requirements for the proper preparation of specimens for submission to Contractor.
- 2.4 In the performance of the services requested, the Contractor shall comply with all applicable laws; rules and regulations and shall engage only in activities and actions and use only tools and methods which fully comply with all applicable laws, rules and regulations.

## **3. COUNTY'S OBLIGATIONS**

- 3.1 The County will provide adequate facilities for collection and storage of specimens and will provide assistance to Contractors' personnel in the handling and collection of specimens from residents.
- 3.2 The County shall make information and data concerning its policies, standards, criteria, and studies available for reproduction.

- 3.3 The County will use its best efforts to ensure that physician written orders for laboratory testing have been correctly transmitted to Contractor.
- 3.4 The County will notify the Contractor if it desires Contractor to perform regularly scheduled collection and transportation of specimens for County patients.
- 3.5 The County will assume responsibility for chart audits and assuring accurate completion of Contractor's test order requisition form, including the correct third party payor and insurance billing information with applicable.
- 3.6 The County will ensure that all tests ordered, including but not limited to standing orders, meet all Federal and State requirements, including that the attending physician has specifically ordered the test(s), that the tests are medically necessary and do not violate frequency limitations, and if a standing order, that they are also for a defined period of time and for a medical condition warranting a standing order.
- 3.7 The County retains professional and administrative responsibility for providing services hereunder that are timely and that meet applicable professional standards and principles.

#### 4. PAYMENTS

- 4.1 The Contractor agrees to accept as full compensation from the County for the performance of the Work embraced in this Contract, the fees as set by the Medicare and Medicaid programs.
- 4.2 The County will not accept any claim for extra work or materials furnished unless the Contractor receives prior written authorization from the County. All work or materials furnished without prior written authorization are at the Contractor's own risk and expense.
- 4.3 The Contractor may not make any charge or claim for damages that result from delays or hindrances beyond the County's control.
  - 4.3.1 The sole form of compensation for delay or hindrances is a reasonable extension of time agreed to by the parties.
  - 4.3.2 An extension is not a waiver of any of the County's legal rights.
- 4.4 All documents the Contractor presents to the County under this agreement are the County's permanent property.

## 5. CONFIDENTIALITY

- 5.1 If and to the extent, and so long as, required by the provisions enacted by the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, but not otherwise, Contractor does hereby assure the County that Contractor will appropriately safeguard protected health information made available to or obtained by Contractor.
- 5.2 In implementation of such assurance and without limiting the obligations of Contractor otherwise set forth in this Agreement or imposed by applicable law, Contractor hereby agrees to comply with applicable requirements of law relating to protected health information and with respect to any task or other activity Contractor performs on behalf of the County.
- 5.3 At termination of this Agreement, Contractor shall return, destroy or properly guard all protected health information received from County that Contractor still maintains in any form and retain no copies of such information.
- 5.4 The Parties agree that this Agreement may be automatically amended from time to time if and to the extent required by the provisions of 42 U.S.C. 1171 et seq. enacted by the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder, in order to assure that this Agreement remains consistent therewith.

## 6. TERM OF AGREEMENT

- 6.1 This agreement will commence on the 1<sup>st</sup> day of July, 2002, and shall continue for a period of one (1) year as twelve (12) consecutive months, unless terminated as provided herein.
- 6.2 This agreement may be renewed annually with mutual consent.
  - 6.2.1 The County shall notify the Contractor of any determination to extend this Agreement no less than thirty (30) days prior to the beginning of the relevant additional year.
  - 6.2.2 All terms and conditions shall remain the same and in force during any and all renewal periods.

## 7. TERMINATION OF THE AGREEMENT

- 7.1 Termination for Convenience. The County reserves the right to terminate any part of or the entire contract that may result from this bid without cause and at any time provided the Contractor is given thirty (30) calendar days written notice.

7.1.1 The Contractor may cancel said agreement upon ninety days written notice (to allow sufficient time for the County to secure another provider).

- 7.2 Termination for Cause. This Agreement may be terminated by either party, with cause, by either party notifying the other party in writing, of its intent to terminate and the specific cause(s) for such termination. Cause for termination by the County may include if the Contractor:
- 7.2.1 Refuses or fails to supply enough properly skilled workers or proper equipment to satisfactorily provide complete needs assessment as requested.
  - 7.2.2 Disregards laws, ordinances, or regulations or orders of a public authority having jurisdiction over the Contract.
  - 7.2.3 Otherwise commits a substantial breach of any provision of the Contract Document.

7.3 Termination for Cause Process. The County and the Contractor shall have the following obligations upon termination for cause

- 7.3.1 The party requesting termination shall notify the other party, in writing, of its intent to terminate and the specific cause(s) for such termination.
- 7.3.2 The defaulting party shall have ten (10) calendar days to address and/or correct the defect to the satisfaction of the other party.
  - 7.3.1 If said defect(s) is/are resolved within such period, the cause is removed and termination is rescinded.
  - 7.3.2 If defect(s) is/are not resolved within such period, termination will occur on the tenth (10<sup>th</sup>) day following receipt of the original termination notice.

7.3 Termination for bankruptcy. This Agreement will terminate immediately upon the filing of a petition in bankruptcy by either party; or the making by either party of an assignment for the benefit of creditors; or if any involuntary petition in bankruptcy or petition for an arrangement pursuant to the Bankruptcy Act is filed against either of the parties and is not dismissed within thirty (30) days; or if a receiver is appointed for the business of either party, or any part thereof.

7.4 Termination for nonparticipation. This Agreement will terminate if an action is taken against either party to revoke, suspend or cancel either party's certification to participate in Medicare or Medicaid programs.

## 8. FEE SCHEDULE / BILLING

- 8.1 The County shall indicate on each requisition the appropriate party to bill for laboratory services rendered by Contractor to County patients.
- 8.2 County will appoint a member of its staff to be responsible for assisting the Contractor in obtaining proper billing information.
  - 8.2.1 The Contractor may contact this person to obtain insurance information necessary for billing purposes.
- 8.3 Contractor will bill and collect all charges for laboratory services provided to the following classes of residents of County Facility:
  - 8.3.1 Residents for whom County Facility receives reimbursement from any payor that includes cost of laboratory services (for example, payments from the Veterans Administration or certain managed care plans when the County receives an all inclusive fee for care provided to such residents);
  - 8.3.2 Residents for whom the County Facility acts as financial guarantor or as custodian of the resident's funds; and
  - 8.3.3 Residents with Medicare or Medicaid coverage, for the period of time they are in the care of the County Facility.
- 8.4 All such laboratory tests and services shall be billed in compliance with current Medicare and Medicaid procedures.
- 8.5 If Contractor does not directly perform testing referred by County Facility, only an appropriately licensed referenced laboratory will be used.
  - 8.5.1 All testing hereunder which is referred by Contractor to another laboratory, will be billed by the Contractor to residents or other third-party payors in compliance with all applicable laws and regulations.

## 9. INSURANCE

- 9.1 Prior to commencement of any services, the Contractor shall provide the County with the requested insurance certificates identifying this Agreement by name and number (**see Exhibit A**). All required insurance policies, except Workers' Compensation and Professional Liability, must name the County as Additional Insured with regard to this project.
  - 9.1.1 The Contractor must give the County thirty days written notice before cancelling any policy.
  - 9.1.2 The Contractor's failure to furnish evidence of insurance may be considered a breach of contract.
  - 9.1.3 The Contractor must require any subcontractors to provide Worker's Compensation and Employer's Liability with at least as much coverage as that provided by the Contractor.



## **10. NON-TRANSFERABLE RESPONSIBILITIES**

- 10.1 No assumption or takeover of any of Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than Contractor whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration, for any reason whatsoever, may occur without County's express prior written approval.
- 10.2 If any such assumption, takeover, or unauthorized performance does occur without such prior written approval, this Agreement will become void for failure of its essential purpose. Such act is therefore a material breach of this Agreement, upon which County may pursue any lawful remedy.

## **11. ASSIGNMENT AND SUBCONTRACTING**

- 11.1 Contractor shall not assign its rights, delegate its duties or subcontract any performance of our Agreement without the express prior written consent of County. Any assignment, delegation or subcontract without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which County may immediately terminate the Agreement in accordance with the provisions stated in section 7.

## **12. TIME IS OF THE ESSENCE**

- 12.1 Time is of the Essence. If any anticipated or actual delays arise, Contractor shall immediately notify County. Regardless of notice if deliveries are not made at the time agreed upon, County may, at its sole discretion, terminate this Agreement and proceed pursuant to section 7.

## **13. INDEPENDENT CONTRACTOR STATUS**

- 13.1 This Agreement is by and between County and Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between County and Contractor. The employees and agents of one party are not the employees or agents of the other party for any purpose whatsoever.
- 13.2 Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of worker's compensation liability, solely employees of Contractor and not employees of County. Contractor shall be solely liable and responsible for furnishing any and all workers' compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of Contractor hereunder.

- 13.3 The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security and safety requirements.

#### **14. INDEMNIFICATION**

- 14.1 The Contractor shall indemnify and hold harmless the County, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss of use resulting therefrom; is caused in whole or part by any negligent act or omission of the proposer, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 14.2 In any and all claims against the County or any of its members, officers or employees by an employee of the proposer, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the proposer or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

#### **15. LICENSES AND BONDS**

- 15.1 The Contractor shall obtain whatever insurance, licenses and bonds and fulfill whatever other requirements as are required in order to perform this Agreement, and shall provide evidence of such insurance, licenses and bonds to the County.

#### **16. GOVERNING LAWS**

- 16.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

**17. EQUAL EMPLOYMENT OPPORTUNITY**

- 17.1 In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age or marital status.
- 17.2 The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

**18. FORCE MAJEURE**

- 18.1 No party to this Agreement shall be liable for failure to perform any duty or obligation that said party may have under the Agreement where such failure has been occasioned by any act of God, fire, strike, inevitable accident, war or any cause outside the reasonable control of the party who had the duty to perform.

**19. SEVERABILITY**

- 19.1 If any provision of this Agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the parties shall, if possible, agree on a legal, valid enforceable substitute provision which is as similar in effect to the deleted provision as possible.
- 19.2 The remaining portion of the Agreement not declared illegal, invalid or unenforceable shall, in any event, remain valid and effective for the term remaining unless the provision found illegal, invalid or unenforceable goes to the essence of this Agreement.

**20. SECTION HEADINGS**

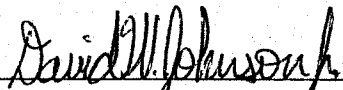
- 20.1 Section headings contained in this Agreement are for reference purposes only and shall not affect, in any way, the meaning and interpretation of this Agreement.

IN WITNESS WHEREOF, the contractor and the County do hereby execute this contract.

**EXECUTION BY LANCASTER COUNTY, NEBRASKA**

**CONTRACT APPROVED AS TO  
FORM:**

**COUNTY OF LANCASTER,  
NEBRASKA**


  
for Lancaster County Attorney

  
Chairperson, Board of Commissioners

**EXECUTION BY CONTRACTOR**

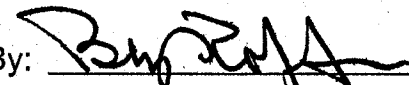
**IF A CORPORATION:**

**ATTEST:**

  
Secretary (SEAL)

Physicians Laboratory Services, Inc.  
Name of Corporation

4840 "F" Street, Omaha, NE 68117  
Address

By:   
Duly Authorized Official

PRESIDENT  
Legal Title of Official